regular hourly rate of pay for the purposes of calculating overtime pay.

It is becoming more common for companies to link pay to performance as they look for innovative ways to improve employee performance. More employers are awarding one-time payments to individual employees or to groups of employees in addition to regular wage increases. Employers have found that rewarding employees for high quality work improves their performance and the ability of the company to compete. If a company's profits exceed a certain level, employees are able to receive a proportionate piece of the profits. Unfortunately, many employers who choose to operate such pay systems can be burdened with unpredictable and complex overtime liabilities.

Under current law, an employer who wants to give an employee a bonus must divide the payment by the number of hours worked by the employee during the pay period that the bonus is meant to cover and add this amount to the employee's regular hourly rate of pay. This adjusted hourly rate must then be used to calculate time-and-a-half overtime pay for the pay period. Employers can easily provide additional compensation to executive, administrative, or professional employees who are exempt under the FLSA without having to recalculate rates of pay.

Some employers who provide discretionary bonuses do not realize that these payments should be incorporated into overtime pay. One company ran afoul of the FLSA when they gave their employees bonuses based on each employee's contribution to the company's success. The bonus program distributed over $300,000 to 400 employees. The amount of each employee's bonus was based on his or her attendance record, the amount of overtime worked, and the quality and quantity of work produced.

When the company was targeted for an audit, the Department of Labor cited it for not including the bonuses in the employees' regular rate for the purpose of calculating each employee's overtime pay rate. Consequently, the company was required to pay over $12,000 in back overtime pay to their employees. The company thought it was being a good employer by enabling its employees to reap the profits of the company and by paying wages that were far above the minimum. These types of actions taken by the Department of Labor are especially surprising in view of Labor Secretary Reich's exhortations to businesses to distribute a greater share of their earnings among their workers.

This legislation will eliminate the confusion regarding the definition of regular rate and remove disincentives in the FLSA to rewarding employee productivity. The definition of regular rate should have the meaning that employers and employees expect it to mean—the hourly rate or salary that is agreed upon between the employer and the employee. Thus, employers will know that they can provide additional rewards and incentives to their nonexempt employees without having to fear being penalized by the Department of Labor regulators for being too generous.

JUDICIAL MANDATE AND REMEDY CLARIFICATION ACT

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. MANZULLO. Mr. Speaker, I rise today to introduce legislation that I believe is long overdue. This bill, the Judicial Mandate and Remedy Clarification Act of 1996, seeks to limit the authority of Federal courts to fashion remedies that require State and local jurisdictions to assess, levy, or collect taxes in any way, shape, or form.

We are currently entering into a debate on reforming the Federal Tax Code. We will be studying the impact of Federal tax policy on personal savings and spending, on State and local governments, as well as the over all effect on the economy.

It is time for Congress to address the effect judicial mandates and taxes have on State and local governments. Actions by Federal judges that directly or indirectly force a State or local government to raise taxes have serious ramifications on our Nation's economy. In many cases, remedial decisions have forced State and local governments to increase taxes, further squeezing take-home pay or affecting property values.

For example, in the congressional district I serve, people living in Rockford Illinois Public School District 205 are alarmed over the sharp increase in their property taxes as part of a remedy decision to pay for the implementation of a desegregation lawsuit against the school district. The complaints I have received include the fact that taxpayers are funding millions of dollars for a master, attorney's fees, consultants, and so forth, while seeing little money going to educate their children. They also complain that huge hikes in real estate taxes are making homes in Rockford very difficult to sell. Seniors have advised me that they can barely pay the taxes on their homes. This situation with the Rockford schools is dividing, if not slowly eroding the ties that bind the community.

Rockford, IL, is not the only community affected by judicial taxation. Hundreds of school districts across the country have the same problems. A Federal judge in Kansas City ordered tax increases to fund a remedy costing over $1 billion. Yet, there has been little improvement in the school system. Lawyers, masters, and consultants have been the beneficiaries of such court orders while the childrens' education has seen little improvement.

Judicial taxation is not, however, limited to school districts. Federal judges have ordered tax increases to build public housing and expand jails. Any State or local government is subject to such rulings from the Federal courts.

The U.S. Congress is given the authority under article III of the U.S. Constitution to define the scope of judicial powers.

My bill will place very strict limitations on the power of a Federal court to increase taxes for purposes of carrying out a judicial order. It is not a statement about desegregation, prison overcrowding, or any other decision where a Federal law has been broken. It is about taxpayers obligated to pay for Federal court remedies through higher taxes without recourse—i.e., taxation without representation. Judicial remedies should be, must be, tempered by the community's ability to pay for it, without raising taxes.

If a school board, municipality, or State government feels that taxes must be raised, then the people should be asked. Otherwise, the governing board must operate within its means. There is no such thing as a school district dollar just as there is no such thing as a Federal tax dollar. The money belongs to the people. Judicial taxation is a back door method to take people's hard-earned money without representation.

A judge works under the parameters of the laws available to him or her. The purpose of my legislation is to make it very difficult for Federal judges, who are unelected officials, to raise taxes, and therefore press them to work within the budgetary constraints of the State or local government.

Any lasting result that could come out of a judge's remedial decision must come from the community and must have the people behind it. There has been no success in cases where judicial mandates alone act as the remedy. As I mentioned before, there are many people who are willing to make a positive contribution to solving these problems. By relieving the State and local governments of the burden of judicial taxation, the people of a State, city, or school district will be able to step forward and be part of a solution that is best for the community.

Let me be explicitly clear that I am not talking about whatever remedies are made by the court. I am talking about how to pay for whatever remedy or settlement results from any decision. That is where Congress can have input into this area. I take no position on what remedial actions may be enacted—that is a matter of the elected officials on the State and local level, but I am compelled to take a position on how those Federal court remedies are funded.

Mr. Speaker, I urge that congressional hearings be held soon on the effects of these court orders and this important legislation. Congress must bring to light the effects of such remedies. In the past, there have been attempts to limit the power of the Federal courts to act in certain areas, but there has been little focus on placing restrictions on the courts issuing orders that are essentially unfunded judicial mandates. To date, none of these bills has passed. That is why I crafted carefully focused language to address this very difficult issue.

THE MOTHER AND CHILD PROTECTION ACT OF 1996

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. TOWNS. Mr. Speaker, I rise today to introduce legislation which ensures that newborn babies and their mothers receive appropriate health care in the critical first few days following birth.

The legislation requires insurance companies, HMO's, and hospitals to offer mothers and newborns at least 48 hours of inpatient care following normal births and 120 hours after caesarean sections. Mothers may choose to go home earlier but insurers and HMO's must then offer them a home care visit within 24 hours of discharge.

The typical length of stay over a decade ago for a woman and her infant after delivery was 3 to 5 days for a vaginal delivery and 1 to 2 weeks for a caesarean delivery. Over the past few years the typical length of stay decreased to 24 hours or less for an uncomplicated vaginal delivery and 2 to 3 days for a caesarean. In some regions around the country, hospitals are now discharging women 6 to 12 hours following a vaginal birth.

Health care organizations such as the American Medical Association [AMA] have stated that early discharge of women and infants after delivery cannot be considered medically prudent. The AMA's policy on early discharge is that it is a decision which should be based on the clinical judgement of attending physicians and not on economic factors. Furthermore, national medical health care organizations such as the AMA and the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, all agree that shorter hospital stays are placing the health of many newborns and mothers at risk.

There is reason for concern for the trend toward shorter hospital stays. Health care officials agree that the shorter stay increases the incidence in newborns of jaundice, dehydration, phenylketonuria [PKU], and other neonatal complications. For an example, adequate PKU test requires a newborn to have had 24 hours of milk feeding and most babies are not fed until 4 hour after birth. If a newborn is discharged prior to the 24 hours of milk feeding, then the hospital readmissions for undetected jaundice, a common condition in newborns and the easiest to treat. PKU and severe jaundice are conditions that can cause mental retardation if not detected early. Clearly if newborns spend more time in the hospital, then these and other conditions can be easily detected and treated, saving lives and money.

A recent study by the Dartmouth-Hitchcock Medical Center found that within an infant's first 2 weeks of life, there is a 50-percent increased risk of readmission and a 70-percent increased risk of emergency room visits if the infant is discharged at less than 2 days of age. Other studies indicate that early release is just as harmful to mothers as to infants.

Mothers can develop serious health problems such as hemorrhaging, pelvic infections, and breast infections. There is also the concern that opportunities for educating new mothers in the care of their newborns are lost when inappropriate early discharge occurs. This, coupled with the fact that many mothers are simply too exhausted to care for their children 24 hours after delivery, often leads to newborns receiving inadequate care and nourishment during their crucial first few days of life.

A 48-hour minimum stay is consistent with steps being considered by some States. For example, my bill is very similar to one which recently passed the New York Assembly, and which is being considered in the Senate. New Jersey, Maryland, and North Carolina have also enacted laws on maternity hospital stays.

Prevention has always been a way to cut health care costs. However, discharging mothers and newborns early creates its own costs. When a child suffers brain damage or other permanent disabilities because they did not receive adequate early care, insurers are then forced to pay for treating patients for conditions which could have been prevented or lessened if caught earlier.

Mr. Speaker, this bill allows new mothers to focus on learning to care for their newborns and themselves instead of being concerned with when their insurance coverage will run out.

CONDEMNING RESTRICTIONS ON THE MEDIA AND THE CLOSING OF THE SOROS FOUNDATION IN SERBIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. LANTOS. Mr. Speaker, with my distinguished friend and colleague from Nebraska, Mr. BEREUTER, and the bipartisan support of a number of our colleagues, I have introduced a resolution deploring recent actions by the Government of Serbia that restrict freedom of the press and freedom of expression, deplores the decision of the Serbian Government to prevent the Soros Foundation from continuing its democracy-building and humanitarian activities in Serbia, and calling upon the Government of Serbia to remove immediately these restrictions against freedom of the press and the operation of the Soros Foundation.

Recently, the autocratic President of Serbia, Slobodan Milosevic, closed down the only independent television station in Belgrade. This follows the government closure just over 1 year ago of the leading independent daily newspaper in the country. Mr. Speaker, this is an outrage. As Slobodan Milosevic tries to work his way back into acceptance by the civilized world community—and we should encourage him to do that—he continues his autocratic and antidemocratic moves against the news media in Serbia.

But, Mr. Speaker, this is not all. The Milosevic government has also closed down the Soros Foundation, a humanitarian and charitable organization that has done an enormous amount of good for the people of Serbia and, indeed, for the peoples of countless other countries. It is an organization that has established an outstanding reputation for encouraging democratization and the development of open, pluralistic civil societies in the former Communist countries of Central and Eastern Europe and the republics of the former Soviet Union.

The decision of the Serbian Government to withdraw the registration of the internationally renowned Soros Foundation is most likely related to the activities of the foundation in encouraging freedom of the press and freedom of expression. The Soros Yugoslavia Foundation was established in Serbia in 1991. Its board was comprised of prominent scholars and intellectuals from different ethnic backgrounds and regions. Since its establishment, the foundation has dispersed millions of dollars in grants for a variety of programs.

The programs that most likely earned for the foundation the hostility of the Milosevic government were those which it sponsored supporting the free media and freedom of expression. Beginning in 1992, the foundation initiated a program to support independent media, including assisting the start-up of some 40 independent media outlets, restarting publications in Albanian, Hungarian, and Slovak languages and initiating a major research project on repression in the media.

The Soros Foundation was also involved in establishing the Association of Independent Electronic Media in Serbia and in establishing a media center in Belgrade to promote cooperation between journalistic associations. Grants were provided to permit many journalists in Serbia to attend symposia and workshops abroad and to encourage communication between Serbian and foreign journalists. In 1994 the foundation began support for an independent daily newspaper in Belgrade—Nasa Borba—after Serbian Government authorities absorbed Borba, previously the most prominent independent newspaper published in Belgrade.

The problem of government control of the media in Serbia is an issue of major concern to the United States, Mr. Speaker. The latest issue of ''County Reports on Human Rights Practices in 1995,'' which was released by the Department of State just last week, reflects both the conditions in Serbia and the problem this represents for the United States. The report on Serbia notes the following:

An important factor in Milosevic's rise to power and almost total domination of the political process is his control and manipulation of the state-run media. Freedom of the press is greatly circumscribed. The Government discourages independent media and resorts to surveillance, harassment, and even suppression to inhibit the media from reporting its repressive and violent acts.

Opposition politicians and minority ethnic groups are routinely denied access to the state-run mass media; they are vilified in the government-controlled media, and their positions misrepresented. This year the government-controlled press mounted a campaign against nongovernmental organizations [NGO's] and international humanitarian organizations. In some instances personnel of United Nations and religious organizations were not granted visas to continue their work; in at least one case, the Government revoked the registration of a major NGO.

Mr. Speaker, the government of Serbia and President Slobodan Milosevic need to understand how we in the United States feel about these serious issues. They need to understand our firm and unequivocal commitment to freedom of the press and to the vital necessity of freedom of expression. The resolution that I have introduced with Mr. BEREUTER is intended to make that clear and unequivocal. It is important that we in the Congress reaffirm our commitment to these vital democratic principles and that the Government of Serbia know of our commitment.

Mr. Speaker, I ask that the text of our resolution be placed in the RECORD, and I invite my colleagues to join as cosponsors of this resolution to demonstrate our support for freedom of the press and to make clear to Serbian authorities our commitment.

H. RES. 378

A resolution deploring recent actions by the government of Serbia that restrict freedom of the press and freedom of expression and prevent the Soros Foundation from continuing its democracy-building and humanitarian activities on its territory and calling upon the government of Serbia to remove immediately restrictions against freedom of the press and the operation of the Soros Foundation.

Whereas free and independent news media and freedom of expression are fundamental tenets of democracy and are vital to assuring democratic government;

Whereas democracy can exist only in an environment that is free of any form of state